

## **REMARKS**

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims is not more than three, and the total number of claims is not more than originally filed.

A Petition for a two-month extension of time and the Petition fee are enclosed.

### **Priority**

The Office Action requests a translation or English abstract of the Russian priority Patent Application. The Office Action does not state the reason for this request. Enclosed is an English abstract for the Russian patent (RU2259819) issued from the Russian priority Patent Application obtained from the EPO website.

### **Amendment to the Claims**

Claim 24 has been amended to include limitations of Claim 25. Claim 24 has also been amended to recite a plurality of “perfluorocarbon compounds” for consistency and clarity. Dependent claims have been amended in view of amended Claim 24. Withdrawn Claims 19 and 20 have been canceled, without prejudice. New Claims 26-28 has been added, read on the elected invention, and find support

in the original claims. Applicants urge that the above Amendment introduces no new matter into this U.S. Patent Application.

### **Restriction/Election**

As Claim 17 has been amended to depend from Claim 24, Applicants understand that the withdrawn claims will be eligible for rejoinder upon the allowance of a claim of the elected invention.

### **Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 2-4, 7, 8, 22, 24, and 25 under 35 U.S.C. §102(b) as anticipated by the USPTO translation of Vorobyev, Russian patent document 2162692, is respectfully traversed.

Anticipation requires that every element of the claimed emulsion be found in Vorobyev (MPEP 2131). Furthermore, the elements must be arranged as required by the claim (MPEP 2131, citing *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Vorobyev discloses a perfluorocarbon emulsion for biomedical purposes, with proxanol used as the emulsifying agent. Whereas Vorobyev's emulsion does not consist of any phospholipids emulsifier, Vorobyev does disclose that phospholipids emulsifiers are known for use in perfluorocarbon emulsions (pages

6-7). However, the mere use of phospholipids as an emulsifier surfactant coating for perfluorocarbon cores as described in Vorobyev is not Applicants' invention.

Applicants' claimed invention requires a phospholipid dispersion in the water-salt medium. Vorobyev does not disclose or suggest the use of a phospholipid dispersion as an emulsifier. Applicants have unexpectedly discovered that the use of a phospholipid dispersion according to the present invention provides a desirable improved shelf-life, particularly in a non-frozen state (e.g., for at least six months). Applicants have unexpectedly discovered that incorporating the phospholipids in a dispersion in the water-salt medium reduces or eliminates the phospholipids tendency to separate to the top of the solution medium.

As Vorobyev does not disclose or suggest Applicants' recited phospholipid dispersion in a water-salt medium, Vorobyev does not anticipate Applicants' claimed invention.

New dependent Claims 26-28 recite limitations also not disclosed or suggested in Vorobyev. Claim 27 recites a mixture of perfluorotripropylamine and coproducts thereof, similar to Claim 5 which was not rejected in view of any prior art reference.

### **Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 9-13, 15, 16, and 23 under 35 U.S.C. §103(a) as being unpatentable over USPTO translation of Vorobyev, Russian patent

document 2162692, in view of Ganong, *Rev. of Medical Physiology*, in further view of Trevino et al., U.S. Patent 5,733,526, is respectfully traversed.

Claims 9-13, 15, 16, and 23 depend from Claim 24 and are patentable for at least the same reasons as discussed above. Trevino et al. in particular discloses hydrocarbon oil/fluorochemical preparations with phospholipids as an emulsifier, but does not provide or suggest the deficiency discussed above, namely a phospholipid dispersion in a water-salt medium.

The rejection of Claim 14 under 35 U.S.C. §103(a) as being unpatentable over USPTO translation of Vorobyev, Russian patent document 2162692, in view of Roth et al., U.S. Patent 5,344,393, is respectfully traversed.

Claim 14 depends from Claim 24 and is patentable for at least the same reasons as discussed above. Roth et al. does not provide the deficiencies discussed above.

#### **Claim Rejections - 35 U.S.C. §112**

The rejection of Claim 2 under 35 U.S.C. §112, second paragraph, is believed to be moot in view of the above Amendment. The undersigned is available by telephone if a further change to this claim language is deemed necessary for clarity.

The rejection of Claims 5 and 6 under 35 U.S.C. §112, second paragraph, is respectfully traversed. Whereas “fluorinated” can refer to a less than fully fluorinated form, the term “perfluoro” or “perfluorinated” refers to a completely fluorinated compound. The undersigned believes this is in line with conventional usage within the art, and requests a telephone call to discuss if a change in the hyphen usage within the compound name would be desired for further clarity.

### **Information Disclosure Statement**

Reference AN (SU 797546) listed in the Information Disclosure Statement (IDS) mailed on 05 March 2008 was listed on the International Search Report (ISR) for the corresponding PCT International Patent Application. An English language version of the ISR was submitted at filing and the IDS notes the reference's presence on the ISR. A courtesy copy of the ISR (official Russian and English versions) is enclosed herewith. Applicants believe that a further English translation or abstract is not required. Applicants further note that information about this patent document appears to be included on page 3 of the USPTO translation of Vorobyev.

References AR and AT (Sheet 1), AS and AT (Sheet 2), and AR-AT (Sheet 3) listed in the IDS mailed on 05 September 2008 and not considered are background materials (e.g., citations for information and test methods) taken from

Serial No.: 10/591,411

the footnotes within the Specification. As they are not considered by Applicants to be relevant to the patentability of the claimed invention, and therefore Applicants believe that no further consideration of these documents by the Examiner is needed.

**Conclusion**

Applicants sincerely believe that this U.S. Patent Application is now in condition for examination and prosecution before the U.S. Patent and Trademark Office.

Applicants intend to be fully responsive, and request a telephone interview if any further issue remains.

Respectfully submitted,



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